



A Member of Congress Repents

By
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Here is a speech that apparently was never delivered. It was found in a trash bin in the basement of the House Rayburn Office Building:

After many years in the Congress, I leave many friends of both parties, and take with me some good memories. I have regrets, but then, I had too much to do, and not enough time to do it. Political scientists say that we spend most of our time on “constituent services,” which means getting reelected. The professoriate often discovers the obvious. They call that “science.”

Still, when I recall how my colleagues and I flailed and foundered and ran for cover on the scary deficits, the energy crisis, immigration, the environment, out-of-control banks and mortgage speculators, and the war in Iraq, I wonder whether we even deserve our miserable fourteen percent public approval rating. (I tactfully won't mention earmarks or other kinds of corruption, which would take too long.) Our shortcomings have been well covered by the pundits, who explain, ad nauseam, why bad things happened only after they happened.

But one of our failures has not been covered by the mainstream press, shame on them. I refer to our oversight of the U.S. Postal Service. Most of us in Congress know little about this giant agency we are responsible for. A few facts. It employs over seven hundred thousand people. Eight million Americans who work for catalogers, small newspapers, magazines, printers, greeting card vendors, charities, and more, have jobs that depend on it. It takes in more than \$70 billion a year from customers, not taxpayers. With few exceptions, it delivers to every residence and business in the nation six days a week. And it is fighting for its life.

For about 40 years now, the Postal Service has been a self-supporting government corporation, like the Tennessee Valley Authority and the Federal Deposit Insurance Corporation. Government corporations were recommended by the first Hoover Commission as a good way for government to run commercial-type enterprises. The organizing principle is simple: If an agency sells a product or a service, it should act like a business

to keep it off taxpayers' backs. President Truman backed the idea. In 1968, the Kappel Commission, appointed by President Johnson and later supported by President Nixon, recommended that the old patronage-saturated, tax-dependent Post Office Department be converted to a government corporation, governed by a bipartisan board nominated by the President and confirmed by the Senate.

Of course, there was hell to pay. The party in power had patronage rights to appoint over 60,000 postmasters and rural carriers. Some of these appointees were good people, some were not; but the process stank. It corrupted management by diverting loyalties. We in Congress felt free to call "our" appointees to get a collection box moved, or even to give someone a job, qualified or not. We set rates and set wages. Since we naturally tended to set the former too low, revenues rarely covered costs, so we taxed our constituents to make up the difference, usually about twenty percent. Few knew that the money they spent at the post office wasn't enough to cover costs, and that they were being taxed as well to pay for the same service.

President Nixon supported the Kappel Commission's initiative, and sent us a draft bill based on its recommendations. No one knew what to expect. The mailers and postal unions were used to lobbying us for lower postage rates and higher wages, and we were used to getting their money and their votes.

The mailers, afraid of a postal service that would actually act like a business, got the Senate's postal committee, chaired by Senator Gale McGee, to amend the Nixon bill by creating a Postal Rate Commission to control postal rates, and more. Its five presidential appointees would presumably protect the public from the nine presidential appointees charged with running the Postal Service. Never had there been anything like it in our government. The Kappel Commission had rejected this option; one government agency supervising another government agency made no sense.

The Senate committee's rationale is still echoed today, even by some who should know better. It goes like this: The Postal Service has a monopoly over letter mail. Monopolies should be regulated. QED. That logic holds for private monopolies whose directors seek corporate profits. It

is not true of government corporations whose directors are appointed and sworn to uphold the public interest as defined by statute.

The unions, which opposed reform, managed to overcome their misgivings when they were graciously offered a fourteen percent pay raise (in two steps) and a unique binding arbitration provision. Strongly resisted by then Postmaster General Winton “Red” Blount, that provision authorizes an arbitrator, with no responsibility for costs, to set wages if negotiations break down. His decision is final. Like the PRC, there’s nothing else like it in the Federal government, or in the corporate sector, for that matter.

We did enact the postal reform bill in 1970, and we deserve credit for creating a self-supporting, patronage-free system. Unfortunately, instead of correcting our early blunders, the next time we took a serious crack at postal reform we compounded them. We made matters worse in 2006 by enacting the Postal Accountability and Enhancement Act (PAEA). The Act gave much expanded authority to the re-named Postal Regulatory Commission, and gave several other government agencies roles in postal governance. In so doing, we stiff-armed a lot of people who knew a lot more about the Postal Service than we did.

- Seven of nine members of President Bush’s bipartisan 2003 presidential commission told us that “this [bill] is a governance model that simply won’t work.”
- The bipartisan Board of Governors unanimously informed us that they’d rather give up reform entirely than try to run the Postal Service under the PAEA.
- A month before the PAEA was enacted, Comptroller General David Walker’s letter to Congress said that “the Postal Service’s business model is increasingly outmoded.” His aide later testified that “it was unsustainable.”

Four months after enactment, this unprecedented fragmentation of management authority led PMG Jack Potter and Board Chairman Jim Miller to testify not only that the business model was broken, but that the Act would load more costs on postal customers.

Strangely, most mailers had egged us on. They closed their eyes to the bill's destructive aspects in exchange for an inflation-limited rate cap on ninety percent of postal products, and financial relief from escrow and excess military pension payments. In light of escalating costs, the rate cap may or may not work. The hoped-for financial relief actually increases costs by diverting over five billion dollars a year to a Retiree Health Benefits fund.

Who benefits from the PAEA? Unions, competitors, and nonprofits. Unions' statutory benefits, especially wage arbitration, are safeguarded. Competitors are pleased with a hog-tied Postal Service. Nonprofits, which should be supported, if at all, by taxpayers, continue to be subsidized by businesses and individual mailers. Who loses? The Postal Service, struggling to deal with a serious revenue decline in a shaky economy--without essential management tools.

Our most inexcusable behavior, however, has been our rhetorical and statutory demand that the Postal Service act like a business and our refusal, when push comes to shove, to permit it to do so.

We force the Postal Service to use American airlines for foreign shipments. That costs mailers about \$100 million a year. We don't permit the postal employees' health care plan to include the same prescription subsidy as other federal plans. Cost to mailers: about \$250 million per year. We don't permit the pension and health benefits, over \$5 billion a year, to be sensibly spread out over a longer period. Postal customers could save about \$4 billion a year over a longer span.

The Postal Service has a huge amount of excess space. As a result of worksharing, for instance, eighty percent of advertising mail bypasses bulk mail centers. We know that its facilities should be merged and reduced, but we find plausible reasons to block this common-sense step, demanding that they improve their data, minimize disruption, and so forth. In fact, more than a hundred House members have cosponsored the Mail Network Protection Act of 2007, which would force the Postal Service to bargain with its unions before entering into outsourcing contracts over five million dollars.

About forty Senators are sponsoring a Mail Delivery Protection Act that would protect union jobs and forbid contracting out deliveries in low-volume rural areas. I recall only one case when we stood firm. Several years ago, postmasters lobbied us for wage arbitration rights, like unions. Many of us co-sponsored such a bill, but eventually it dawned upon us that they are managers, for Heaven's sake. And so it died.

Last December, the newly empowered Postal Regulatory Commission claimed that our 2006 reform law gave it the right to determine whether previously unregulated postal activities that generate revenue should continue. PRC directed the Postal Service to identify every such activity, of which there are a multitude: passport application fees, document copying, sales or rental of excess office space, lease of roofs or land for ads, trademarks on NASCAR race cars, sale of used vehicles, asset forfeitures in mail fraud and money laundering cases, parking fees from employees, rebates on fuel purchases, compensation for repairs under warranty, ads in Movers Guide, and major revenue-producing alliances such as those with Pitney Bowes and FedEx.

The Postal Service challenged the PRC's interpretation of the law. A sixteen page PRC order in April defended its position. In June, the Postal Service filed a thirty-five page response (plus attachments) signed by thirteen lawyers, a "Further Response," and a twenty-two page sworn statement from Deputy Postmaster General Patrick Donahue.

Regulators like to regulate and I suspect that PRC takes too generous a view of its authority. Many nonpostal activities are authorized by law, which raises a question: May Congress constitutionally delegate to a regulatory agency the power to stop another agency from performing its statutory functions? I doubt it. Unless they work something out, this may end up in the U.S. Court of Appeals for the District of Columbia, a situation George Will might have fun with, or Jon Stewart on the Daily Show: two federal bureaucracies with lawyers in platoon strength facing off on how much authority one has over the other, and stressing an already overburdened court system. The public may laugh, but respect for government would not be enhanced. Congress is not to blame, of course. All we did was enact an unclear and ill-conceived law that is fertile soil for such nonsense.

We continue to kid ourselves that the Postal Service will be fine if it cuts costs. But cutting costs can only go so far before services are cut, which would lead to fewer customers and still lower revenue. Wages and benefits eat up about eighty percent of costs, no change in forty years, far higher than UPS or FedEx. That's the elephant in the room, and it must be dealt with. Postal executives are going all out to get more revenues by reorganizing its marketing function, recruiting outside executives, urging postal employees to sell the Postal Service, and launching TV and newspaper ad campaigns. All this while cutting costs, a valiant effort.

Accordingly, two modest proposals: Strike from postal legislation everything that directs the Postal Service to act like a business. Since it's empty rhetoric, it won't hurt to take it out, and would be morally consistent with our behavior.

Then, eliminate the Board of Governors and give the Postal Regulatory Commission its powers. That would eliminate conflicts between two government entities whose organizational relationship is fundamentally dysfunctional. Think of it! No more disputes about data, transparency, and who manages what. No disagreements in defining universal service, the postal monopoly, mailbox access, or nonpostal revenues.

These steps would likely result in the collapse of this remarkable institution, or its reversion to a political cornucopia, but few will know enough to blame Congress. Besides, I won't be here.

No signature

Comment from the author:

To their great credit, Postal Service personnel are working energetically, even frantically, to increase revenue and cut costs, daunting tasks in these parlous times. They should do more. They should look again at their unsustainable business model, and prepare amendments to existing legislation to modernize its charter and structure.

Such an initiative will reverse a long-standing reluctance, embodied in Postal Service culture, to recommend legislation likely to be “dead on arrival.” Over the years, governors and PMGs have refused to waste political capital on what they perceive as a capricious quest. Mailers have been equally reticent. Sounds reasonable, but it is not.

Negotiating with oneself is self-defeating. If a strong case for change can be made, it should be made. The chattering class and even insiders are often wrong in their assessments of doom. In 1967, the unanimous reaction of politicians and commentators to postal reform was, “Why are you wasting your time? Congress will never give up its goodies.” They were wrong. A report from an unimpeachable group, and aggressive follow-up, were the foundations for the 1970 legislation. In previous essays, I have cited other examples of “hopeless” causes that came to pass, even without the impetus of a high level commission.

Candid discussions with lawmakers are worthwhile and essential, but not sufficient. Legislative changes must not only be justified, they must be presented in a way that the postal community and the public will understand as benefitting them. They must include specific statutory language. That may irritate lawmakers, and it will engender resistance, even hostility. It can also generate support. Even if the effort fails, it may be the first step in a cumulative process that could lead to change.

Despite the Postal Service’s commendable efforts, I believe that there will soon come a time when it will have no choice but to publicly approach Congress along these lines:

- Enumerate and describe the steps taken to maintain a viable Postal Service within existing constraints.

- Describe the insurmountable difficulties with its outdated business model and fractured management authority.
- Describe the consequences to customers in both statistical and human terms.
- Present the statutory changes needed to survive.

Countless essays have been written about the vagaries of government, a few by me. But great poets and humorists know best how to pierce the veils that obscure our vision. Will Rogers said, “I don’t make jokes. I just watch the government and report the facts.”

It would not be a joke to millions of Americans if the Postal Service was trapped, as some predict, in a death spiral. If it goes down, it should go down fighting.

ABOUT THE AUTHOR

Murray B. Comarow was elected as a Fellow of the National Academy of Public Administration in 1974 and has served on its board of directors. An attorney, he was of counsel to two law firms and is a consultant to a major mailer. He was executive director of President Johnson's Commission on Postal Organization in 1967-68, and executive director of President Nixon's Advisory Council on Executive Organization in 1970-71. Additionally, he served as senior assistant postmaster general, distinguished adjunct professor in residence at American University, Acting Dean of its College of Public and International Affairs, partner at Booz, Allen, and Hamilton, executive director of the Federal Power Commission, and acting deputy general counsel in the Office of the Secretary of the Air Force.

This article should be of interest to Congress, the Executive Office of the President, the Postal Service, the Academy, and the private sector. It may be considered against the background of some of his more recent essays:

- The Dysfunctional Behavior of Mailers, August 2007
- What Does Postal Reform Do? June 2007
- The Strange Case of Postal Reform, February 2007
- The U.S. Postal Service is a Government Corporation, So What? November 2006
- The Postal Conundrum, September 2006

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